

**MINUTES OF THE
AUBURN CITY PLANNING COMMISSION
DECEMBER 20, 2005**

The regular session of the Auburn City Planning Commission was called to order on December 20, 2005 at 6:55 p.m. by Chairman Thompson in the Council Chambers, 1225 Lincoln Way, Auburn, California.

COMMISSIONERS PRESENT: Merz, Murphy, Smith, S. White, Chrm. Thompson

COMMISSIONERS ABSENT: None

STAFF PRESENT: Will Wong, Community Development Director; Steve Geiger, Associate Planner; Bryan Jones, Associate Civil Engineer; Sue Fraizer, Administrative Assistant

ITEM I: CALL TO ORDER

ITEM II: APPROVAL OF MINUTES

Associate Planner Geiger noted a revised set of minutes from the December 6, 2005 meeting had been handed out to the Planning Commission. The minutes were revised based on minor changes requested by the City Attorney. The **revised** minutes of December 6, 2005 were not approved pending further review by the Commission.

ITEM III: PUBLIC COMMENT

None.

ITEM IV: PUBLIC HEARING ITEMS

- A. **Use Permit – 905 Lincoln Way (Auburn Faith Center)– File UP 05-6.** The applicant requests approval of a use permit to allow a church to conduct services within an existing commercial building located at 905 Lincoln Way. (continued from the meeting of December 6, 2005).

Steve Geiger gave the staff report. In the meeting of December 6, 2005, considerable concerns were brought up. The 15 on-site parking spaces will not be adequate to accommodate the church attendance. The applicant asked for no restrictions on the days or times that they may use the facility. This proposal to have the unrestricted use generates some concerns from staff with regard to off-site parking. The environmental document which was originally prepared for this project did not evaluate unrestricted use of the building by the applicant. Staff therefore believes that the negative declaration that was originally prepared for this project does not adequately address the potential parking impacts of the proposed use. Staff recommends that a parking study be prepared by a professional traffic consultant that would evaluate the parking demand for the proposed use. Staff recommends that this issue be continued off-calendar to allow time for the parking study to be completed.

Comm. Merz stated that he was surprised because he thought the matter was already continued to this week's meeting to allow the parties to get together and work something out. He is concerned about dragging this out. He stated that people are already canceling their parties at the facility, and if it goes too long, the business will go bankrupt.

Planner Geiger clarified that this does not affect the existing activities happening at the Shiloh Center.

Comm. Merz feels that as long as it is under this study, nobody wants to go there when they don't know the status. He thought an action was going to be taken tonight.

Comm. White stated that she thinks that the Commission's job is to look at the impact from an economic perspective. Unfortunately, some people are going to be impacted, but she feels a study should be done so that a good decision can be made.

Comm. Merz is not opposed to a study, but isn't sure it should be part of this action. If a study is done, he'd like to see some strict guidelines and a time limit set for a decision to be made.

Director Wong stated that the Commission cannot approve the project unless they're willing to adopt a Negative Declaration with no mitigations. Staff is saying the Environmental Document is inadequate, and a parking study is needed. If the intent is to approve the project and the Commission feels the Negative

Declaration with no mitigations is adequate, then there is a motion for that and staff will bring back a resolution for those findings. If they want to disapprove, then they don't have to make any environmental findings, but they need to make the proper findings for denial and staff has a motion in the Staff Report where they could continue that, so staff could bring back the appropriate motions and findings for denial. Staff's opinion is that due to the evidence and information provided at the last meeting and in consulting with our city attorney, the environmental document is inadequate. Sometimes in a project, additional studies are needed. Staff's recommendation is we do not feel comfortable with the Commission going ahead with approval, and there is certainly not enough information.

Comm. Merz asked if there was a way to set a time-frame.

Director Wong stated that there is a process in getting all of the information together. Staff would like to have two or three cost proposals to choose from, and the traffic engineer will have to do their job. He has no idea how long it would take. In the past we have been more lenient with religious organizations. This is a project that needs a proper study to be done, and he recommends there not be any time limits put on it to allow for the study to be done properly and correctly.

Comm. Merz asked if Staff had a chance to review the RLUIPA (Religious Institutionalized Persons Act) documentation.

Chrm. Thompson stated that the original use by the Shiloh Center was not a church, so this is a "new" use that we're looking at.

The public hearing was opened.

Daniel Davenport stated that the church feels this location would be strategic for them to open their doors to the community. He gave a hand-out showing findings of an informal parking survey. The survey showed what attendance and parking during some of the busiest downtown hours as well as the hours that the church would most likely use the facility. The survey gave them a better picture of what the real numbers are for the parking. The area does have some real challenges regarding the parking. He spoke with several business owners to get some ideas that might make this workable. These issues have been there for a long time. They will have parking lot attendants during services and will educate members on where to park and where not to park. The church would offer its' 15 on-site parking spaces for public use when the

facility is not being used. Over the past 5 years, they have not had any large gatherings (over 20 people) during the week. The church has approval from the First Baptist Church to use their 16 parking spaces during the week. Mr. Davenport asked if a realtor bought the building, could be used for meetings?

Planner Geiger stated that the approved use **currently** is as an events center.

Mr. Davenport asked if that is without restrictions on day or attendance.

Planner Geiger said that is correct.

Mr. Davenport stated that based on the original findings by Staff, their church use was found to not have a negative impact on the environment. He asked if the restriction on time usage would be there for another type of business, for example retail or restaurant.

Director Wong stated that the church has to decide what they want to use the building for. What the Commission needs to know is the amount of time the building would be used for church use and what amount of time would be for commercial use.

Mr. Davenport said that in their original proposal they would like to continue to lease out spaces for offices, and continue the rental of the facility. He asked if the requirement for a parking study would be done for any type of business that would propose to use the building.

Director Wong said no, this is because of the request for the use permit and the impact of the church. If the parking study is done, the church needs to be very clear on their proposal about whether the intent is to rent out the facility as a commercial business, then that can be part of the project description and analysis. There needs to be clarification about whether the offices will be rented out or used as church offices. We need to know what square footage is for leasing and sub-letting to businesses, and what square footage is for usage by the church.

Mr. Davenport asked if this would also affect the parking requirements there.

Director Wong said yes, then Staff would be evaluating what's permitted, and what's the square footage for the church.

Mr. Davenport stated that the reason they asked for unrestricted use was that in the event that something unforeseen came up, they wouldn't want to be outside of their permitted use.

Comm. Merz remembered from the last meeting that the church was not going to lease out for events, and now they are stating that they do want to lease it out. He is wondering which is correct.

Mr. Davenport stated that the church would coordinate events that would use the conference centers, and the office spaces would be leased out.

Chrm. Thompson asked if the church would be leasing the office space out to people other than those from the church.

Mr. Davenport said, yes, at this time there is an office leased to a business and they want to continue with a long-term lease.

Comm. White asked Mr. Davenport how long he'd been the pastor of this church.

Mr. Davenport said since 1994, and he became Senior Pastor in November of 2003.

Comm. White asked Mr. Davenport what would happen in his absence, would there be someone to fulfill the agreement he is making?

Mr. Davenport said that his intention is to stay in the area.

Comm. White stated that as she understands it, the church is willing to agree to have commercial events which would require taxes, and would create parking issues. She is not clear on Mr. Davenport's response about the usage.

Mr. Davenport stated that they feel that this facility is an important place in Auburn as a central meeting place, and that is their vision for the use of the building.

Chrm. Thompson asked for anyone **in favor** of this project to speak. There were none.

Chrm. Thompson asked for anyone **opposed** to this project to speak.

Joanne Neft, who wrote a letter which was published in today's Auburn Journal spoke about positive response to her letter. She read the letter which expressed her opposition to the project.

Alfred Lee presented photos which were taken on Sunday, December 11, 2005 at several parking locations in the area of the Shiloh Center. He seeks full clarification from the church and would like more specific answers regarding the impact of this proposal on the community.

Comm. Murphy asked Director Wong if the parking study would get to the heart of the things Mr. Lee is requesting.

Director Wong, said yes, he wants it clarified for the Commission and the public. The church use as a new use is subject to a use permit and environmental review. The use is evaluated as an assembly use without respect to its' religious character. This was brought up in the last meeting by the city attorney that there are federal statutes about how you treat any religious organization. You have to treat this like any commercial business. It's a place of assembly. Certain businesses, or uses in the City of Auburn are places of assembly. As the Commission reviews this as a place of assembly which needs a use permit, the City has the ability to place very precise conditions of approval.

Comm. Murphy asked, if the traffic study shows that there is a certain degree of a problem, and, as an example there was a maximum occupancy determined, would they have to post signs about the maximum occupancy, or does someone keep track of the attendance?

Director Wong stated that at the last meeting with the City Attorney he said there are a variety of mitigations that could come out from the traffic/parking demand study and there could be signage placed on the property stating the times/days that parking is available to the public. They could be required to have attendance on certain days. This is not unusual for places of assembly.

Comm. Murphy asked if the traffic study will allow for ways to limit the use.

Director Wong said you can limit the use permit to this church, and set time frames for parking reviews to be done.

Comm. Murphy asked Mr. Lee if he would be alright with a parking study, and returning to this issue after receiving the facts.

Mr. Lee said his request is for clarity in the request for usage. He is concerned about the center losing business because the future of the center is unknown.

Comm. Wong stated that there is no guarantee that after the study the proposal could be approved or denied. After the study is completed, staff may recommend denial. If the study leads Staff to make certain conditions for the use permit, the applicant must agree to those conditions. If, in the future, the applicant violates the conditions of approval, the City has a right to revoke the use permit.

Comm. Murphy suggests that the matter be continued after the facts have been gathered.

Comm. Merz asked Director Wong if the study would be based on a place of assembly, or a church, and if they wanted to lease out that would have to be made clear before they moved forward.

Director Wong said yes, they would need a clear project description from the applicant.

Comm. Merz asked if the study was approved, will it be known what the study will be of.

Director Wong said that the Commission would be agreeing with Staff that the issue be continued off-calendar, and the applicant will be sent back to do the parking demand/traffic study that the Staff is recommending.

Chrm Thompson asked for clarification about whether the usage is strictly for a church or for commercial use, or both.

Director Wong stated that will need to be clarified by the applicant so that at the next public hearing there will be a clear project description.

Harvey Roper, Chairman of Downtown Business Association stated that he is concerned about the growth of the church. He feels this should be addressed in the parking study. He recommends that the Commission does not issue a use permit to the church, and recommends that the parking study be done. He

turned over to the Commission 71 signed petitions opposing the project.

Comm. Murphy asked if the parking study will explore future usage.

Mr. Wong said, yes, that could be a part of the project description.

Marti Mecina, a member of the Auburn Faith Center stated that she was the person who completed the application for the use permit, and she wished to clarify that they are not asking for any changes to the original application. Their original intention was to maintain the same type of usage as the Shiloh Center, and that has never changed. They wish to use it as a commercial enterprise as well as a church.

Comm. Merz asked if, in fact alcohol will be allowed at the facility for a party or wedding.

Ms. Mecina stated that yes, the church will allow alcohol to be served there.

Mr. Lee stated that he is a scientist and listens carefully to facts and data. He didn't hear incorrectly that initially the usage request was just for Sundays and Wednesdays. He asks that the Commission listen very carefully.

Margarita Swann stated that last Saturday there was a meeting at the Shiloh center from 8-5. The street parking was full during the meeting time. She stated that she can't afford for a church to be there. She asked the Commission to deny the use permit.

Dave McEnroth stated that he agrees with staff and that the parking is not adequate. He recommends a no vote on this use permit.

Dan Hager stated that he feels there is a contradiction from business owners and that is that if the church is to use the building they are against the project, but if someone else such as a retail business uses the building they are in favor of the project. He wonders about a theater arts center, and how the parking would be handled for that use.

Chmn. Thompson stated that whatever use is proposed, it will be reviewed by the Commission.

There were no other speakers opposed to the project.

Mr. Davenport stated that he appreciates all the comments. They agree that the parking study should take place. The church does not want to be a burden to the community. He asked for a decision for either approval or denial from the Commission tonight.

The public hearing was closed.

Comm. White stated that this is a tough situation for everyone involved. It is clear that the Commission needs to review the parking because of the community. The parking issue has existed for a long time, and this has brought it more to light.

Comm. White **MOVED** to:

A. Find that the Negative Declaration prepared for the project (File UP 05-6) does not adequately address potential parking impacts from the project. Move to continue the item off calendar and require that the applicant provide staff with a parking study prepared by a professional traffic consultant to be selected by the City. The parking study shall evaluate the current and projected needs for parking demand for activities held at the Shiloh Center, whether it's a church or commercial use, and shall contain appropriate mitigation measure to address parking impacts from the proposed use. Based on the results of the parking study, direct staff to prepare a Mitigated Negative Declaration containing mitigation measures necessary to address potential parking impacts. The project shall then be reconsidered by the Planning Commission at a noticed public hearing.

Comm. Murphy **SECONDED**.

Comm. Merz asked for clarification of the study. Would it be based on what the use permit is before the Staff?

Planner Geiger said that is correct, it would only be limited to this project and its' impact on the parking.

Comm. Murphy stated that if the building is used as an assembly building it will have too much of a parking impact to handle it on-site, so it will be difficult for anyone using the building. He asked Staff how long the parking study would take.

Planner Geiger said it will depend upon selecting the consultant, their workload, and the consultant doing the analysis.

Comm. Murphy asked if this continuation is considered a denial.

Planner Geiger said no.

Comm. Murphy stated that from his understanding of the pastor, he'd like an approval or denial now.

Comm. White said that the Commission could do that, but the parking issue needs to be resolved for the next time an application is made. She feels a study needs to be done.

Comm. Merz said he feels inclined to get this over with tonight.

Director Wong said that he does not think there is enough information to either approve or deny the project.

Comm. White agreed.

Director Wong stated for the record that Commissioner Smith, who is serving in his first Commission meeting tonight, has reviewed the minutes of the December 6th meeting and that he attended that meeting as a member of the public.

There was a roll call vote.

AYES:	Murphy, White, Smith, Chrm Thompson
NOES:	Merz
ABSTAIN:	None
ABSENT:	None

The item was therefore continued off-calendar so that a traffic study could be prepared.

- B. **Design Review Permit, Tree Permit – 373 Elm Avenue, southwest corner of Elm Avenue and Shirley Street (Elm Plaza) – Files DRP 05-1, TP 05-1.** The applicant requests approval of a design review permit and a tree permit for a 17,200 square foot commercial building and apartment unit located at 373 Elm Avenue, southwest corner of Elm Avenue and Shirley Street.

Director Wong gave the staff report. He gave the history of this

Project. In 2000 the City approved a general plan amendment and a re-zone for this neighborhood which changed this area into a commercial zone. In 2002 an approximately 24,000 square foot commercial building was approved for the site. This approval is still valid until May, 2006. The applicant came back with a pre-development application and received input from the Planning Commission. Since that time the applicant has hired an architect. The proposed building size has been reduced to a 17,000 square foot building, from 4 stories to 3 stories. Many of the conditions

of approval of the previous project were done to accommodate the property owner/resident at 160 McKenzie Ct. These conditions of approval have been incorporated into the new. Although this is a 17,000 square foot building, it includes part of the parking, so the actual square footage is approximately 15,000 square feet. The applicant wants the ability to convert the parking area to commercial. He is also proposing an over 3,000 sq. foot apartment unit. He would also like the ability to convert the apartment to commercial.

Comm. Murphy asked Director Wong about the Ravine being there and the pathways that the City has built along the canal. With a major project next to it he doesn't understand the plan to offer any way to enhance it.

Director Wong stated that the applicant is avoiding impacting the ravine.

Comm. Murphy asked if there was any direction to try to make that an asset to the property.

Director Wong stated that the proposed parking lot does not impact the canal, nor the ravine.

Comm. Murphy said that the asset of a stream isn't being addressed by any of the development.

Comm. Murphy asked about the direction of trying to get parking hidden behind the building.

Director Wong said no, not for this project since there is a 10-foot set-back.

Comm. Murphy asked if the zoning surrounding the house is commercial.

Director Wong said yes.

Comm. Murphy asked if the zoning is intended someday to be commercial use.

Director Wong said yes.

Comm. Murphy asked about across the street by the laundry.

Director Wong said that is commercial. Everything from Elm Ave. to I-80 is commercial.

Comm. Murphy said that on the back side he noticed there are two 15 foot embankments.

Director Wong said the height is measured whether it is commercial or residential from the highest adjacent grade, so that is why they have the ability of a 3-story building looking from the downhill side, 2-story building looking at it from Elm Ave.

Comm. Murphy asked Director Wong to look at a particular corner on the plan. He stated that it is 40 feet plus 8 feet.

Director Wong said height would be from the highest adjacent grade. That is the current code.

Comm. White asked for the rating of trees. What is recommended to be removed?

Director Wong discussed the site's topography and how difficult it is to save trees in the middle of commercial projects.

The applicant, Paul Hillesheim spoke. They have cut down the size of the building and have negotiated with Mrs. McKenzie to try to make it economically feasible. There have been a lot of delays. They've completely changed their proposed use for the building. He and his wife are currently business owners and plan to condense their two businesses into the new facility and plan to move into the unit that they're proposing.

Shane Freitas, the applicant's architect stated that he is open for questions.

Comm. Murphy asked if Mr. Freitas heard the questions he asked of Director Wong.

Mr. Freitas said, yes, with regard to the continuation of the paths down the ravine, the owner was very clear that he wanted to maintain the existing stone wall and enhance it. They would heavily landscape all the edges of the parking to try to restore some of the heavy vegetation.

Comm. Murphy asked about the connection to Auburn Ravine and was there any thought to allowing the neighborhood to have access there.

Mr. Freitas said that they want to develop the stairway on the west side, so if in the future if that area was commercial, it would be a place for people to spend time. He feels that the proposed parking lot will allow for the building to show well.

Comm. Murphy asked if the fire department has reviewed the proposed project.

Comm. Wong said that yes, it was part of the development review.

Comm. Murphy asked Mr. Wong if the Fire Department is okay with the parking lot.

Comm. Wong stated that the Fire Department is okay with the project.

Comm. Murphy asked about some of the parking spaces in front of the building being on a 12% cross-slope. Was that intended?

Mr. Freitas responded that the steepest slope is between the port-cochere and space 28.

Comm. Murphy said that typically you look for a 6% maximum slope.

Comm. Murphy had several additional questions which Mr. Freitas answered.

Chmn. Powers asked if anyone is opposed to the project. There were none.

Karen Schwab, Attorney for Mrs. McKenzie who is a neighbor to the proposed project spoke. Mrs. McKenzie was concerned about preserving her privacy. The reason for the landscaping is for her

privacy. She thanked staff who worked to incorporate the conditions that were in the project. Mrs. McKenzie is supportive of the project.

The public hearing was closed.

Comm. Murphy stated that the building is much larger that he'd like to see. It doesn't address the stream. There is too much parking jammed in too many different ways. He doesn't think circulation in this parking lot is going to be easy to accomplish. He doesn't like removing the trees. He doesn't like the overall height. He does like that it has access along the sidewalk. It takes on some of the character of the neighborhood. He would like to see the proposal changed and modified before he would support it.

Comm. Murphy **MOVED:**

A) Move to deny the Mitigated Negative Declaration for the Elm Plaza Project and

B) Move to deny the Design Review Permit (File DRP 05-1) and Tree Permit (File TP 05-1) for the Elm Plaza project based on the following:

1. The massing on the edges of the building is too high;
2. The roof should be brought down;
3. Parking lay-out needs to be reviewed due to the angled spaces.
4. Parking stalls with 12% cross slopes project into the drive aisle and affect vehicle turning movements.

Comm. White **SECONDED.**

Comm. White stated that she feels the building looks a lot better but Comm. Murphy is technically in a better position to raise these issues.

Chmn. Thompson called for a vote.

AYES:	Murphy, White, Smith, Chmn. Thompson
NOES:	Merz
ABSTAIN:	None
ABSENT:	None

ITEM V: COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS

A. City Council Meetings

No report.

B. Future Planning Commission Meetings

Nothing schedule for January 3rd. There will be a meeting on January 17th.

C. Reports

Comm. Murphy submitted pictures as an example of what an applicant could submit to help get a feeling about the location. You can see what the massing is of the neighboring buildings.

Comm. Wong cautioned the Commission that they could not talk about the project at this time.

Comm. Murphy spoke about the height of other buildings in downtown. His idea is to use these pictures to get a feel for the area and how the project will work in the area.

ITEM VI. PLANNING COMMISSION REPORTS

None.

ITEM VII. FUTURE PLANNING COMMISSION AGENDA ITEMS

Comm. Murphy asked about the zoning ordinance change for the Design Review.

Director Wong stated that after Comm. W. White's discussion with Old Town representatives, if it is appropriate future agendas will include an opportunity for some ideas to be presented for the possibility of giving Staff more authority to make decisions.

Comm. Murphy asked if the Planning Commission would like to have a sub-committee.

Director Wong stated that over the past year there has been an assortment of approvals for Historic Design Review. It could be things like signs, minor painting, so it would be easy to come up with some guidelines. The Staff will arrive at some recommended parameters and start the discussion. He feels that the Commission could create a sub-committee of the Historic Design Review Commission. However, if a sub-committee is formed, you still have to agendaize the item, you have to post notice in the newspaper. We can have the discussion about whether this would simplify and streamline the process.

Comm. Murphy asked if a person could appeal a staff decision.

Director Wong stated that applicants always have the right to appeal staff's recommendations.

ITEM VIII. ADJOURNMENT

The meeting was adjourned at 9:22 p.m.

Respectfully submitted,

Susan Fraizer, Administrative Assistant